

Rule 73.3. Documents in All Other Actions Based Upon the Agency Record

(a) Documents Furnished in All Other Actions Based Upon the Agency Record. Unless the alternative procedure prescribed by subdivision (b) of this rule is followed, in all actions in which judicial review is upon the basis of the record made before an agency, other than those actions described in Rules 70 and 71, within 40 days after the service of the summons and complaint upon the agency, the agency shall file with the clerk of the court the items specified in paragraphs (1), (2) and (3) of this subdivision (a), if they exist, and the certified list specified in paragraph (4) of this subdivision (a), as part of the official record of the civil action.

(1) A copy of the contested determination and the findings or report upon which such determination was based.

(2) A copy of any reported hearings or conferences conducted by the agency.

(3) Any documents, comments, or other papers filed by the public, interested parties, or governments with respect to the agency's action. The agency shall identify and file under seal any document, comment, or other information obtained on a confidential basis, including a non-confidential description of the nature of such confidential document, comment or information.

(4) A certified list of all items specified in paragraphs (1), (2) and (3) of this subdivision (a).

(b) Stipulations. The parties may stipulate that fewer documents, comments, or other information than those specified in subdivision (a) of this rule shall be filed with the clerk of the court. The agency shall retain the remainder of the record. All parts of the record shall be part of the record on review for all purposes. Upon request to the agency by a party, or by the court, at any time, any part of the record retained by the agency shall be filed by the agency with the clerk of the court forthwith, notwithstanding any prior stipulation or designation under this subdivision.

(c) Documents Filed-Copies. Certified copies of the original papers in the agency proceeding may be filed.

PRACTICE COMMENT: Pursuant to the renumbering of the Rules, the former Rule 72 now will be identified as Rule 73.3. New Rule 72 is “Reserved.”

(Added Sept. 30, 2003, eff. Jan. 1, 2004.)